

**IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

RBH ENERGY, LLC,	§	Case No.: _____
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
COSTAR GROUP, INC.	§	JURY TRIAL DEMANDED
	§	
Defendant.	§	

**ORIGINAL COMPLAINT FOR COPYRIGHT INFRINGEMENT**

Plaintiff RBH Energy, LLC (“RBH”), by counsel, alleges as follows for its Original Complaint for Copyright Infringement against Defendant CoStar Group, Inc. (“CoStar”), and requests relief from this Court based on the following:

**THE PARTIES**

1. Plaintiff RBH is a Texas limited liability company with its principal place of business located at 112 N. Bailey Ave. #B, Fort Worth, TX 76107.

2. CoStar Group, Inc. is a Delaware corporation with its principal place of business located at 1331 L St. NW, Washington, DC 20005-4293. It may be served through its registered agent for service of process: Corporation Service Company, 2711 Centerville Rd., Suite 400, Wilmington, DE 19808.

**JURISDICTION AND VENUE**

3. This is a suit for copyright infringement under the United States Copyright Act of 1976, 17 U.S.C. § 101, *et seq.*

4. This Court has jurisdiction over Plaintiff’s claims for copyright infringement pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(2), 1391(d), and 1400(a). CoStar has systematic and continuous contacts with this Judicial District including ownership of property within in the District and employees who work for CoStar in the District. CoStar maintains an office in the District located at 2000 McKinney Ave., Suite 2150, Dallas, TX 75201.

### **BACKGROUND**

6. RBH realleges paragraphs 1 through 5 as if fully set forth herein.

7. RBH is the owner of U.S. Copyright No. VAu 626-804 (“Copyright”) titled Brian Harness Photographs The Container Store and Selected Interiors May 2004. A true and correct copy of the copyright is attached hereto as Exhibit A.

8. The named artist of the Copyright is Brian Harness (“Harness”). *See id.*

9. On February 2, 2016, Harness assigned the Copyright to RBH. A true and correct copy of the assignment is attached hereto as Exhibit B.

10. Harness, a professional photographer, is the sole member of RBH.

11. On May 7, 2004, Harness entered into a license (“Duke Realty License”) with Duke Realty (“Duke Realty”) of Duluth, GA to take architectural photographs of The Container Store Warehouse at Freeport North, 600 Freeport Parkway, Coppell, Texas. A true and correct copy of the Duke Realty License is attached hereto as Exhibit C.

12. The Duke Realty License called for Harness to deliver seven photographs of the Container Store Warehouse, and granted the Duke Realty the following license: “License: To be used in Duke Realty printed brochures and on [www.dukerealty.com](http://www.dukerealty.com) website.” *See* Exhibit C at 1.

13. The Duke Realty License was not transferrable. *See id.* at 2. As such, no person other than Duke Realty had any rights, either express or implied, to use the photographs subject to the Duke Realty License without the express permission of Harness, or now, RBH.

14. All photos subject to the Duke Realty License were registered as a collection of photographs submitted as part of U.S. Copyright No. VAu 626-804.

15. The photos that were provided to the Duke Realty were registered with U.S. Copyright on May 12, 2004. *See Exhibit A.*


16. One of the photos of The Container Store Warehouse that was subject to the Duke Realty License, and included as part of the Copyright, is the following photo of the warehouse:



17. Defendant CoStar, without permission from Harness or RBH, misappropriated this photograph and included the copyrighted photograph on its website:

[www.loopnet.com/listings/16845699/500-Freeport-Parkway-Coppell-TX/](http://www.loopnet.com/listings/16845699/500-Freeport-Parkway-Coppell-TX/) . A true and correct copy of a screenshot of this web page is attached hereto as Exhibit D.

500 Freeport Parkway, Coppell, TX, 75019 – Distribution Warehouse Property for Lease on LoopNet.com 5/17/13 2:24 PM

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**Industrial Property For Lease**

**Freeport X**  
500 Freeport Parkway, Coppell, TX 75019



Total Space Available: **Fully Leased**  
Rental Rate: **Negotiable**  
Min. Divisible: **Fully Leased**  
Max. Contiguous: **Fully Leased**  
Property Type: **Industrial**  
Property Sub-type: **Distribution Warehouse**  
Building Size: **1,101,500 SF**  
Year Built: **2004**  
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Listing ID 16845699

**Description**  
1,101,500 SF bulk warehouse facility; tilt-up concrete exterior construction with ranch style accents; 36' clear ceiling height; 40' x 50' column spacing with 6" staging areas; 154 dock-high truck doors; ESFR sprinkler system; Triple Freeport Tax Exemption; Zoned light industrial

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18. The photograph, noted above, remained on CoStar's website until sometime after May 17, 2013.

19. LoopNet, formerly a separate company, was acquired by CoStar in 2012 is now one of CoStar's "brands" according to CoStar's SEC filings.

20. Because CoStar had no permission to use the protected photograph, CoStar is liable for direct copyright infringement.

**COUNT 1 – COPYRIGHT INFRINGEMENT**

21. RBH realleges paragraphs 1 through 20 as if set fully herein.

22. RBH alleges CoStar is liable for direct copyright infringement pursuant to 17 U.S.C. 501(a).

23. RBH has been damaged by CoStar's actions.

**DEMAND FOR JURY TRIAL**

Pursuant to FED. R. CIV. P. 38 and the 7th amendment of the U.S. Constitution, a trial by jury is hereby demanded.

**DEMAND FOR RELIEF**

WHEREFORE, Plaintiff RBH Energy, LLC demands that:

- a. Defendant CoStar Group, Inc. be enjoined from reproducing, administering, displaying, or publishing RBH's copyrighted works;
- b. Defendant CoStar Group, Inc. be ordered to pay statutory damages pursuant to 17 U.S.C. § 504;
- c. Defendant CoStar Group, Inc. pay RBH's reasonable attorney's fees and costs of this action, pursuant to 17 U.S.C. § 505;
- d. Defendant CoStar Group, Inc. pay pre-judgment and post-judgment interest on any damages awarded; and
- e. The Court award Plaintiff all other relief it deems justified.

Further, Plaintiff RBH Energy, LLC also reserves all of its rights to elect alternative remedies, including election of actual damages, as permitted by law.

Dated: May 17, 2016

Respectfully submitted,



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**ATTORNEYS FOR PLAINTIFF  
RBH ENERGY, LLC**